

Remarks

Claims 1-3, 6, 7, 9-15, and 17-22 are pending and at issue in this application. Claims 1, 13, and 18 have been amended herein. No new matter has been added by the amendments. Support for the amendments to claims 1, 13, and 18 maybe found in the specification at least in paragraphs [0071] to [0077] and in FIGS. 12, 13, and 17.

Claims 1, 3, 13, 14, 17, 18, and 20 stand rejected as obvious over Palmaz et al. (WO 01/74274) ("Palmaz") in view of Casey, II et al. (US 2004/0019375) ("Casey"). Claims 2, 11, 12, 15, and 19 stand rejected as obvious over Palmaz in view of Casey further in view of Chuter (US 2003/0176912) ("Chuter"). Claims 6, 7, 9, 10, 21, and 22 stand rejected as obvious over Palmaz in view of Casey and Chuter further in view of Kula (US 6,325,825) ("Kula"). Applicants traverse the rejections of claims 1-3, 6, 7, 9-15, and 17-22 as obvious.

Arguments**Claims 1, 3, 13, 14, 17, 18, and 20 stand rejected as obvious under 35 USC § 103 over Palmaz in view of Casey.**

Amended independent claims 1 and 18 recite a radially undulating pattern of longitudinally alternating radially extending peaks and valleys in the abluminal wall surface of the body member and a radially undulating longitudinally alternating pattern of radially extending peaks and valleys in the luminal wall surface of the body member, wherein each peak in the luminal surface is longitudinally coincident with each peak in the abluminal surface and each valley in the luminal surface is longitudinally coincident with each valley in the abluminal surface, wherein a plurality of microperforations is disposed through the portion of the body member between the coincident peaks and the coincident valleys. Similarly, amended claim 13 recites a method of making an implantable medical graft including forming circumferential corrugations defined by a radially undulating pattern of longitudinally alternating radially extending peaks and valleys in an abluminal wall surface of the deposited graft-forming material and a radially undulating longitudinally alternating pattern of radially extending peaks and valleys in a luminal wall surface of the deposited graft-forming material, wherein each peak in the luminal surface is longitudinally coincident with each peak in the abluminal surface and each valley in the luminal surface is longitudinally coincident with each valley in the abluminal

surface, and forming a plurality of microperforations disposed through the portion of the deposited graft-forming material between the coincident peaks and the coincident valleys.

The examiner “considers the interstitial web of Palmaz to be a ‘wall segment’ that is disposed between alternating peaks (midpoint of the highest region) and valleys (midpoint of the lowest region).” (Current Office action, page 2). Applicants respectfully point out that amended independent claims 1, 13, and 18 recite more structure than included by the language in the examiner’s above-noted quote. Specifically, amended claims 1, 13, and 18 require that “each peak in the luminal surface is longitudinally coincident with each peak in the abluminal surface and each valley in the luminal surface is longitudinally coincident with each valley in the abluminal surface.” Based on the examiner’s interpretation of the Palmaz disclosure, in contrast, the disclosed web or graft of Palmaz includes peaks (“midpoint of the highest region”) longitudinally coincident with valleys (“midpoint of the lowest region”). (See Palmaz FIG. 7). Thus, the structure as claimed in amended claims 1, 13, and 18 is fundamentally different than that disclosed by Palmaz at least because the claimed corrugated structure includes a radially undulating wall, whereas the structure disclosed by Palmaz includes an interstitial web oriented generally parallel with a longitudinal axis of the endoluminal device. Therefore, Palmaz does not disclose or suggest a structure as required by claims 1, 13, and 18.

Independent claims 1 and 18 further recite “a body member comprising a film selected from the group consisting of metallic and pseudometallic materials.” Claim 13 further recites “vacuum depositing a graft-forming material.” In contrast, Casey discloses a sectional crimped graft made from a non-metallic material that is formed by applying mechanical or fluid force to cause the graft to conform to the shape of a mandrel. Specifically, in paragraphs [0025] and [0026], Casey discloses that:

the grafts of the present invention may be constructed of a variety of materials. Such materials maybe in form of films and yarns, woven, knitted, braided or extruded material. Textile materials are specifically useful in vascular graft applications The textile graft is desirably a woven material, and can be flat woven using any known weave pattern. . . . Moreover, any type of textile material suitable for use in the body can be used as the yarns or fibers of the present invention. Synthetic materials include a variety of polymers including, but not limiting to, polyesters, polypropylenes (PP), polyethylenes (PE), polyurethanes (PU), polytetrafluoroethylenes (PTFE) and mixtures thereof. Polyethylene terephthalate (PET) is particularly useful.

[0026] Woven tubular textile products are particularly useful in manufacturing vascular grafts in variety of shapes and sizes. After the graft is woven, a predetermined portion of the graft may then be subjected to one or more crimping process. In one aspect of the invention the graft is placed on a mandrel having a grooved or corrugated surface therein. The grooved surface is a series of individual annular ribs or rings in specific locations. These ribs or rings supply the template by which the crimps in the graft wall are formed. The predetermined portion of the graft is then placed over the crimp geometry forming mandrel and forced into the groove by mechanical or fluid force and cause the graft wall to assume the mandrel's groove shape, thereby forming annular crimps in the graft wall.

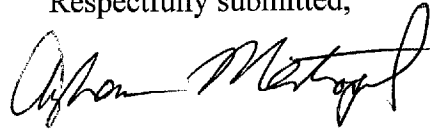
Thus, a person of ordinary skill in the art of making a flexible graft by vacuum deposition of metallic or pseudometallic materials would not have had a reason to combine Casey's non-metallic force conformed graft, as described in the above-quoted passage, with the metallic structures disclosed in Palmaz.

Even allowing for such improper combination, Palmaz and Casey, considered individually or collectively do not disclose or suggest microperforations disposed between longitudinally coincident peaks and valleys, as required by claims 1, 13, and 18. All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). MPEP § 2143.03. For at least the reasons stated hereinabove, it follows that independent claims 1, 13, and 18 cannot be rendered obvious by a combination of Palmaz and Casey. Further, all claims depending from independent claims 1, 13, and 18 are also nonobvious. Therefore, applicants respectfully request that the examiner withdraw all rejections of claims 1-3, 6, 7, 9-15, and 17-22, and timely issue a notice of allowability therefor.

Fees

No fees are believed due with this Response, however, the Director is hereby authorized to charge any under payment of fees, or credit any overpayment to Deposit Account No. 18-2000, of which the undersigned is an authorized signatory.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ayhan E. Mertogul', written in a cursive style.

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